A History of Labor Unions from Colonial Times to 2009

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"Those who tell you of trade-unions bent on raising wages by moral suasion alone are like people who tell you of tigers that live on oranges."

– Henry George, 1891[1]

Labor unions have been defined as "private combinations of workingmen" that try to increase wages and improve working conditions for members. But how? What means do labor unions use? As Henry George suggests, trade unionists are hardly known for their kindness to strangers and genteel ways.

From colonial times, trade unionists found the going difficult in North America. There was no prevailing ideology of "working-class solidarity," and unions were far from respectable; in fact, they had a well-earned reputation for being antisocial, even criminal. Some unions were secret societies with secret oaths, and unionists engaged in intimidation, threats, vandalism, and violence, especially against uncooperative workers denounced as subhuman "scabs" and "blacklegs." Private property, freedom of contract, competition, and freedom of movement across occupations (slavery and indentured servitude aside) were celebrated concepts, while government-granted monopolies and cartels were not popular at the founding of the American Republic.

Courts of law were not fond of union methods either, and employers, consumers, and workers often resisted "militant" unions. Competition from imported goods made life difficult too. Some workers were intensely anti-union, not just employers. America was an open society, a frontier society, farm-dominated, sprawling, and free, and wages often were double those paid in England because labor was so scarce here. Although no reliable statistics are available, union membership probably remained below one percent of the work force most years from colonial times to the 1870s.

If a union declared and lost a strike, it usually collapsed and disappeared. Most unions failed during business downturns as jobs, union membership, and revenue declined. While wage rates fell elsewhere in response to depressed business conditions, unions stubbornly insisted on maintaining wage rates ("wage rigidity"), intensifying their own failure. As nonunion labor became less expensive (more "affordable") and induced more hiring, production costs fell, thereby reducing unemployment. Such wage-price flexibility shortened business downturns by expanding output and employment, thereby acting as "shock absorbers" in the economy.

In the vast sweep of the early American economy, unions were a curiosity rather than a prominent feature, confined largely to skilled trades in big cities and on the railroads. Not until the late 1870s and prosperous 1880s, when political philosophy began to shift toward collectivism and the "progressive era," did national trade unions gain a real foothold.

Colonial Times

In the early modern era, the European guild system consisted of tightly regulated local occupational and product monopolies, which never really took hold in North America. A few guilds with apprenticeships existed in the major cities during the 18th century (carpenters, printing, shoemaking, tailoring, hat making), and journeymen from these guilds plus workers' "benevolent societies" formed the core of

early-19th-century trade unions. Most labor protests, however, were spontaneous actions like that reported in 1763, when, according to the *Charleston Gazette*, Negro chimney sweeps "had the insolence, by a combination among themselves, to raise the usual prices, and to refuse doing their work."

Before 1800, printers and shoemakers organized in Philadelphia and New York. Philadelphia printers conducted the first recorded strike for higher wages in 1786, opposing a wage cut and demanding a minimum wage of $6 per week.[2] Employers quickly acquiesced, confirming the generalization in industrial relations that unions win short strikes and lose long ones. Because the average daily wage rate for laborers was $0.53 and $1.00 for artisans in the Philadelphia area, it is not clear that the strike boosted wages for a majority of printers, but a cut was thwarted.[3]

City of Brotherly Love?

Philadelphia was a city of labor-union firsts: the first recorded labor strike, first labor newspaper, first city central body of unions, and first labor-union political activity.

Union Tactics

Trade unions in the early Republic sought monopoly control over the local supply of labor with the "closed shop," an arrangement requiring employers to hire union members only. Selective admission to apprenticeships restricted membership, thereby artificially limiting the supply of skilled labor for hire and placing upward pressure on wage rates.

As in England, threats and violence accompanied strikes. The typical strike aimed to force employers to pay more than necessary for labor available on the open market. The silent corollary was that everyone — union member or no — must "strike" too, that is, withhold his or her labor, willing or not, and refuse employment at pay less than that demanded by strikers. Alternatively, the employer had to be intimidated and decisively discouraged from hiring replacement workers ("strikebreakers"). A union warning from the 1830s suggests how unions discouraged interlopers: "We would caution all strangers and others who profess the art of horseshoeing, that if they go work for any employer under the above prices, they must abide by the consequences."[4]

The stronger a union is, the more it acts like a private state, secure in its power and with little overt need to use violence. Local culture and ideology play a large role because the response of local police, courts, and politicians to union aggression is pivotal. By 1810, union tactics were fully formed: bargain "collectively," demand fixed minimum pay rates, enforce closed shops, stage strikes with picket lines, scab lists, strike funds, and traveling cards, and promote unity among skilled and unskilled workers and solidarity among locals of the same trade.

But how could threatened collective violence and actual violence by adversarial-style unions square with the right of each person to seek his or her best opportunity, free of interference? To strike a bargain for lawful employment, a right firmly entrenched in custom and law? It could not be. Union coercion is incompatible with individual freedom of contract, an ugly truth ignored by most labor writers. But, as Mises wrote, "Actually labor union violence is tolerated within broad limits…the authorities, with the approval of public opinion, condone such acts."[5]

The Law

The courts struggled with the legal status of labor unions from the beginning: were such combinations or labor cartels lawful or not? According to some legal doctrines, unions were "criminal conspiracies in restraint of trade" and illegal combinations to fix prices (for labor services).

These issues were tested in the state courts from 1806 through 1842. In the famous 1806 criminal prosecution of the Philadelphia cordwainers (shoemakers), *Commonwealth v. Pullis*, a three-day trial led the jury to convict the accused unionists of a criminal conspiracy to fix prices, and eight defendants were each fined $8, slightly more than a week's wages. Only 18 unionists were convicted on conspiracy charges when this doctrine was at its peak.[6] In 1842, Massachusetts Supreme Judicial Court Chief Justice Lemuel Shaw, in the influential decision of *Commonwealth v. Hunt*, ruled the bootmakers' union a lawful association with a lawful right to organize and collectively withhold labor ("strike"). The courts did not go so far as to authorize threats and violence by unions as legitimate "weapons of labor" during strikes, but, as Mises pointed out, law enforcement was and is lax in many labor disputes. The state thereby fails in its alleged basic purpose, to protect life, property, and individual liberty against (private) aggression.

1850–1900

Nearly everything was tried in some form or other during this era: socialism, syndicalism, anarchism, cooperatives, political unionism, and, the most seductive idea of all, the welding of everybody (barring bartenders and bankers!) into one gigantic union. Some were secret societies with names like the Knights of St. Crispin, the Molly Maguires, and the Knights of Labor. Yet the main adhesive of British and European unions — easily aroused class antagonisms — was absent in America, and Marxist-style sentiments about the plight of the working class never became the dominant mood, contrary to some historical accounts. More often, American pubic opinion was horrified and disgusted by outbreaks of labor violence and union disruption of production, especially if the outbursts had revolutionary overtones.

Eventually, one form of unionism emerged as a survivor in this unfavorable environment. Experiments with political radicalism gave way to so-called "business unionism," the notion that unions must pursue immediate, material gain for members within the free-enterprise system. The underlying idea was to accept the capitalist wage, price, and political system and achieve marginal gains for members within it. Consequently, the ambitions of social visionaries and leftist radicals who saw unions as a vehicle for radical change gradually fell by the wayside.

The tradition of 20th-century US unionism was largely the work of the American Federation of Labor (AFL) and its leader, Samuel Gompers. Founded in 1881, it was a federation of national trade unions, each composed of members of a particular craft such as locomotive engineers or carpenters. Union membership in the early 1890s was barely 200,000, but as the economy expanded after the Panic of 1893 unions found more effective methods of organization, and membership hit 447,000 in 1897. Given the formula for national craft unionism, unions grew to a modest share of the labor force without enormous government intervention, aside from laxity toward union threats and the actual use of violence.

At the end of the century, union membership in the United States was only 500,000, or less than 2% of the labor force. Only a dozen unions claimed more than 10,000 members. The largest union was the Locomotive Engineers with 30,000 members; the Cigarmakers were second with 28,300. Samuel Gompers, the most famous president of the AFL, for example, came from the Cigarmakers, which disappeared in a merger with the Retail, Wholesale, and Department Store Union in the 1970s. While unions existed in many trades at the close of the century, they did organize a substantial share of employment in few instances, mainly construction, railroads, printing, and the postal service.

Only the railroad and postal unions were direct beneficiaries of pro-union federal legislation. Although 17 state legislatures passed laws during the 1880s and 1890s prohibiting employers from firing employees for belonging to or joining unions, reflecting an emerging pro-union political climate during this period, a prelude to the "Progressive Era."

20th Century

In the early 20th century, union membership rose to 6% of the labor force. There were 2.7 million members by 1913, and the share stayed around 6–7% until 1917. This was the "Progressive Era" of 1900 through 1918 which

fastened a welfare-warfare state on America which has set the mold for the rest of the twentieth century…because a unique set of conditions had destroyed the Democrats as a laissez-faire party and left a power vacuum for the triumph of the new ideology of compulsory cartelization through a partnership of big government, business, unions, technocrats, and intellectuals. [7]

World War I

Prior to World War I, unionists were still on a relatively short leash. From 1842 onward, unions had the clear legal right to exist, and workers could join such "self-help" organizations, but employers were under no obligation to "bargain" with these unions. The courts also tended (ultimately) to restrict union tactics such as threats of violence, violence itself, mob action, and interference with voluntary trade. Further, the courts tended to make little distinction between business and union "restraints on competition." They ruled, for example, that union actions in a boycott organized by the United Hatters of Danbury, CT, against the products of D. E. Loewe and Company (1908) were in restraint of trade under the Sherman Anti-Trust Act of 1890, and fined individual union members responsible for the union's acts (unions never incorporated lest they be held liable as an organization for damages they caused). Unionists therefore prominently demanded governmental privilege and mounted persistent and intensive campaigns for favorable legislation.

In 1912, Congress supplied new assistance with the Lloyd-LaFollette Act to compel collective bargaining by the US Post Office and encourage postal-union membership. In 1914, Congress passed the Clayton Act with provisions to exempt unions from the 1890 Sherman Anti-Trust Act, restrict the use of court injunctions in labor disputes and declare picketing and similar union tactics as not unlawful. Samuel Gompers hailed the Clayton Act as labor's Magna Carta, but subsequent court interpretations neutered the prounion provisions.

The "national emergency" of US entry into World War I provided much of the experience and precedent for subsequent intervention on behalf of unionism, as well as for other cartel-like policies. Historian William E. Leuchtenburg, for instance, points out, "The panoply of procedures developed by the War Labor Board and the War Labor Policies Board provided the basis in later years for a series of enactments culminating in the Wagner National Labor Relations Act of 1935."[8] Under pressure of World War I and the government's interventions, union membership skyrocketed, hitting 12% of the labor force.

The War Labor Board and the War Labor Policies Board, the latter led by Felix Frankfurter and modeled on a directive by Franklin D. Roosevelt who represented the United States Navy on the board, proclaimed governmental support of unions and enforced pro-union measures on industry. The boards, for instance, ordered establishment of "work councils" composed of employee representatives and seized defiant enterprises.

The government even created a union, the Loyal Legion of Loggers and Lumbermen, and forced lumbermen to join in its battle against the radical leftist Industrial Workers of the World (IWW, known as the "Wobblies"). The Loyal Legion collapsed after the war despite government efforts to keep it alive, while others became so-called company or independent unions, subsequently banned by the 1935 Wagner Act.

Just as the War Industries Board led by Bernard M. Baruch and Army General Hugh S. Johnson was the

forerunner for the 1933935 cartelization under the National Industrial Recovery Act (NIRA) administered by Johnson, the War Labor Boards were forerunners to the federal labor boards used to administer Section 7(a) of NIRA and the subsequent National Labor Relations Board (NLRB) created by the National Labor Relations (Wagner) Act of 1935.

1920s

The end of the war ended prounion interventions. By 1924, the union share of the labor force had slipped to 8%, and by 1933 had eroded to the same 6% as thirty years before.

But peacetime help was not far off. The first durable help for "private-sector" unionism was the Railway Labor Act of 1926. The labor disputes that erupted periodically on the railroads were highly visible, violent, unpopular, and politically embarrassing. Although the interstate commerce clause of the United States Constitution, as interpreted then, restricted the ability of the national government to intervene in most economic affairs, Congress had the unchallenged power to regulate interstate commerce. A sequence of federal laws beginning in 1888 regulated railway labor matters, and Congress passed the 1926 law in almost the identical form agreed on by the major railroads and unions. The act, amended in 1934, essentially dictated collective bargaining for all interstate railroads and set up machinery for governmental intervention in labor disputes.

This was an obvious example of monopoly intervention on behalf of an industry. The already unionized railroads found it comfortable to impose compulsory collective bargaining on all interstate railroads, some of which had resisted union pressure better than others. The Interstate Commerce Commission (ICC), in turn, fixed freight rates for railroads based on "costs," which were higher because of unions. Thus railroad wage and price determination was transferred from the marketplace to the political arena.

1930s

During the Great Depression, Congress delivered an amazing sequence of six major pieces of labor legislation favored by unionists, virtually revolutionizing labor markets: Davis-Bacon (1931), Norris-LaGuardia (1932), National Industrial Recovery Act (1933), Wagner National Labor Relations Act (1935), Walsh-Healey (1936), and the Fair Labor Standards Act (1938), popularly known as the minimum wage law. This avalanche of legislation to entrench unions was hastened by the prevailing doctrine of 1920s business leaders, that "high and rising wages were necessary to a full flow of purchasing power and, therefore, to good business," which was followed by its corollary, that "'reducing the income of labor is not a remedy for business depression, it is a direct and contributory cause.'"[9] This ignorant blather reverses the true line of causation: high wages are an *effect* of high productivity and prosperity, not a *cause* of them. If it were otherwise, rather than producing themselves rich, nations could simply declare all good things cheap and all wages high, and thus abolish poverty with pious hopes.

Davis-Bacon: This bill passed in 1931 following a sharp decline in construction activity at the beginning of the Great Depression. Construction expenditures went from $11 billion annually to $3 billion, with over half of the reduced activity financed by government. Competition for contracts and jobs was fierce and mobile contractors using migrant labor entered the market to underbid some local contractors. Many contractors and building trade unions welcomed the law to protect themselves from the competition of what one congressman called "carpetbagging sharpie contractors."[10]

The law requires that workers on federally financed construction be paid wages at "local prevailing rates" for comparable construction work. The clearly stated intent was to protect local workers and contractors

from the competition of outsiders. The ambiguity of prevailing wages gave the United States Department of Labor scope to set minimum wage rates at union wages in about half of its wage determinations. This has cost taxpayers at least a billion dollars per year in higher construction and administrative costs.

Since 1931, Congress has extended the prevailing wage provision to include most federally assisted construction, whether state, local, or national government is the direct purchaser. Additional amendments in 1964 added fringe benefits to prevailing wage calculations. The effect of the Labor Department's administration of the law is not to protect local contractors from competitors but to dish out government work to high-cost contractors and the building-trades unions. Davis-Bacon regulates about 20% of all construction. Construction workers are among the highest paid in America, earning twice the hourly rate of employees in retail trade. Most states passed "little Davis-Bacon" Acts to further unionize the construction industry and "build expensive."

Norris-LaGuardia Anti-Injunction Act: Signed by President Herbert Hoover on March 23, 1932, this bill passed the House 363-13 and the Senate 75-5. It was the culmination of a 50-year union campaign against "government by injunction."

The threefold purpose of the act was to

1. declare nonunion employment agreements ("yellow-dog contracts") unenforceable in federal courts (section 3);
2. grant labor organizations immunity from liability for wrongful acts under antitrust law (sections 4 and 5); and
3. give unions immunity from private damage suits and nullify the equity powers (injunctive relief) of federal courts in labor disputes (sections 7–12).

The overriding object of the act was to free organized labor from the constraints that bind businessmen and others, allowing unions more scope to use their aggressive and violent tactics. The number of strikes suddenly doubled between 1932 and 1933 to 1,695 and then continued climbing to a 1930s peak of 4,740 in 1937. This outburst of strikes occurred during a period of deep depression and massive unemployment, while previous business downturns had always diminished strike activity and caused many unions to disappear. As Hayek summed it up, "We have now reached a state where [unions] have become uniquely privileged institutions to which the general rules of law do not apply."[11]

NIRA: The National Industrial Recovery Act was among the many Roosevelt interventions to boost prices and wage rates on the mistaken theory that falling wages and prices were causing the depression rather than being market-driven adjustments to re-coordinate the economy and restore production and employment. The NIRA — the New Deal fascist system of codes to cartelize both industry and labor markets and push up prices throughout the economy — was struck down by the Supreme Court in the famous *Schechter Poultry* case of 1935 on the grounds that the act delegated virtually unlimited legislative power to the president. Section 7(a) of the NIRA promoted unions and the practices of collective bargaining. Congress then re-packaged similar labor regulations and new interventions piece by piece in surviving legislation like the Wagner, Walsh-Healey, and Fair Labor Standards Acts.

National Labor Relations Act (NLRA): Otherwise known as the Wagner Act, the NLRA was a rewrite of the NIRA's section 7a. The act passed the Senate 63-12 and an unrecorded voice vote in the House, and Roosevelt signed it July 5, 1935.

The NLRA remains the overall labor framework in the United States to this day. It declares that the labor policy of the federal government is encouragement of the practice and procedure of collective bargaining,

as well as protection of worker designation of representatives to negotiate terms and conditions of employment. It uses federal coercion to make it easier to unionize enterprises and employees in the private sector who otherwise would not participate in unionization and collective bargaining. The main regulatory features of the act were as follows.

1. The creation of a politically appointed board, the National Labor Relations Board, to enforce the act, thereby escaping the too-frequent apolitical ("anti-union") rulings from courts of law.

2. The specification of multiple "unfair labor practices" by enterprises to hamper their resistance to organized labor.

3. NLRB enforcement of majority elections for union representation.

4. NLRB determination of eligibility to vote.

5. NLRB enforcement of exclusive (monopoly) bargaining for all employees in a bargaining "unit" by NLRB-certified unionists only.

6. NLRB enforcement of union pay rates for all employees represented, whether union members or not.

In April 1937, contrary to the expectations of many in the Congress who had hoped the Supreme Court would overturn their handiwork as unconstitutional, as it had the NIRA, the court declared the Wagner Act constitutional by a 5-4 vote in the midst of Roosevelt's famous threat to pack the court. It is no exaggeration to state that the Wagner decision marked the judiciary's general abandonment of constitutional protection against federal encroachment on economic rights and due process.

Years later, public disgust with adversarial unionism and underworld corruption produced federal legislation to modify the Wagner Act — principally the **Labor-Management Relations (Taft-Hartley) Act** in 1947 and the **Labor-Management Reporting and Disclosure (Landrum-Griffin) Act** in 1959 — that has been less favorable to unions, though this can be exaggerated. Neither law tampered with the basic privileges and immunities previously granted to organized labor. As legal scholar Richard Epstein says, Taft-Hartley was a partial union victory because it maintained the original structure of the statutes, making it more difficult to return to common law.[12]

My favorite section (602A) in Landrum-Griffin, although intended to rein in union officials' abuse of members' rights, highlights the immunities the state grants to unions:

It shall be unlawful to carry on picketing on or about the premises of any employer for the purpose of, or as part of any conspiracy or in furtherance of any plan or purpose for, the personal profit or enrichment of any individual (*except a bona fide increase in wages or other employee benefits*) by taking or obtaining any money or other thing of value from such employer against his will or without his consent. [Emphasis added.]

The exclusion in parentheses is quite astounding. Such open exceptions (privileges and immunities) for labor unions are necessary in legislation if the object of national labor law since the 1930s is to be promoted and achieved. Namely, this involves an organized labor movement freed from the regular constraints of civilization to extract money from employers against their will with the proviso that the loot be mostly paid to union members in wages and benefits.

Public Contract (Walsh-Healey) Act: Passed in 1936, this act tried to accomplish for unions more generally what Davis-Bacon did for the building-trades unions, but it turned out to be relatively ineffective.

Walsh-Healey targeted bureaucratic administration of employment conditions for all government contracts over $10,000. The law allowed the Secretary of Labor to fix minimum wage scales among nearly all businesses contracting with the government. "Responsible" businesses — that is, unionized employers — generally urged that standards be imposed in order to discipline "unscrupulous" (low-cost, nonunion) competitors, yet the Department of Labor never could settle on a consistent method of determining the "prevailing wage" for such a bewildering array of jobs, individual skills, and pay systems. Evidence that Walsh-Healey is dead for wage- and hour-fixing purposes can be seen in the fact that the act no longer excites controversy in the business community while Davis-Bacon still does.

The Fair Labor Standards Act: Passed in Congress in 1938, this act set a national minimum wage rate of 25 cents per hour. It applied to an estimated 43% of employees in private, nonagricultural work and gradually grew to cover nearly 90%. State minimum wage laws cover most remaining employees. Effective July 24, 2008, the federal minimum was $6.55 per hour and becomes $7.25 per hour effective July 24, 2009, a 29-fold increase over the first minimum wage in 1938.[13] A 90-day beginners' minimum of $4.25 per hour applies to workers under age 20. Covered "nonexempt" employees must be paid overtime rates of one-and-a-half times the regular pay rate for any hours over 40 in a seven-day period. Generally, the minimum wage has fluctuated between 35 and 50% of the average hourly wage in manufacturing.

How does the minimum wage help unions? Less than 10% of all wage and salary employees have wage rates low enough to be directly impacted by the minimum wage. Essentially, unions benefit by pricing competitors and potential nonunion entrants out of business. Many young people, women older people, and members of minority groups such as inner-city blacks find it more difficult to find beginners' jobs because minimum-wage and union wage rates price them out of the market. Yet accepting a low-paying job for its on-the-job training is no different in principle from paying to go to school. Economic studies show that about half of the training in the US economy occurs on the job rather than in school.[14] Shrunken work opportunities caused by the minimum-wage law have ruined uncounted careers, most visibly black teens in the ongoing tragedy of our inner cities. Milton Friedman called the minimum wage law the most antiblack law on the books.[15] Some antipoverty device!

World War II

In 1940, Congress passed the first peacetime draft compelling conscripts to serve in the military, a prelude to the command economy of World War II.[16] Of the 16 million who served in the armed forces during the war, 10 million were draftees, and a depression labor glut turned into a wartime shortage. Government policy shifted from promoting artificially high prices for labor services to keeping prices artificially low during wartime. A series of makeshift commissions and boards were charged with planning and coordinating economic mobilization by fixing prices and wages at below-market-clearing levels, among countless other interventions. Wartime socialism, in other words.

In January 1942, Roosevelt created the National War Labor Board, patterned after the War Labor Board of World War I, to resolve labor disputes by mediation or arbitration. The board could and did seize plants in accord with the draft act of 1940. Also in early 1942, the president created the War Manpower Commission, and by late in the war tried to make it into a powerful "work-or-fight" agency of compulsion, though Congress never approved an economy-wide national service law.

If labor rates had been allowed to clear labor markets by rising rapidly, price-controlled businesses would have been caught in a cost-price squeeze and failed financially, so in October 1942 Roosevelt got open-ended authority over all prices and wages. The War Labor Board appeased unions with security arrangements, administrative slack in its wage controls, and other privileges but gained little "labor peace" from unions in return, despite pledges to the contrary, as work stoppages rose to their worst year in 1943.

Post — World War II

Labor-Management Relations (Taft-Hartley) Act: This act was passed by a Republican-majority Congress over President Truman's veto in 1947. More Democrats joined Republicans to vote for the bill and the override than voted against. Rather than outright repeal of the prounion Wagner Act, Taft-Hartley unfortunately added a list of prohibited union actions, or "unfair labor practices," to "balance" the NLRA, which had previously only banned "unfair" labor practices for employers. The Taft-Hartley Act outlawed union practices such as jurisdictional strikes, wildcat strikes, political ("solidarity") strikes, secondary boycotts, "common situs" picketing, closed shops, and money donations by unions to federal political campaigns. In the land of the once-free, it also required union officers to sign noncommunist affidavits with the government. Union shops, which compel union membership and/or dues payments as a condition to retain a job, were restricted and states were allowed to pass "right-to-work" laws that outlawed union shops. There are 22 states, all in the south and west, with right-to-work laws. Finally, the executive branch of the federal government could obtain injunctions in the federal courts if an impending or current strike "imperiled the national health or safety," a test that has been interpreted generously by the courts.[17] President George W. Bush invoked the law most recently in connection with the employer lockout of the International Longshoremen's and Warehouse Union during negotiations with west-coast shipping and stevedoring companies in 2002.

Labor Management Reporting and Disclosure Act (or LMRDA): Also known as the Landrum-Griffin Act for its sponsors Democrat Phil Landrum and Republican Robert P. Griffin, the LMRDA regulates labor unions' internal affairs and unions officials' relationships with employers. Enacted in 1959 after well-publicized revelations of corruption and undemocratic practices in the Teamsters, Longshoremen's Association and United Mine Workers, the act requires unions to hold secret elections for local union offices on a regular basis and authorizes review by the Department of Labor of union members' claims of improper election activity.

Other provisions:

- Required unions to submit annual financial reports to the Department of Labor.
- Declared that every union officer must act as a fiduciary in handling the assets and conducting the affairs of the union.
- Limited the power of unions to put subordinate bodies in trusteeship, a temporary suspension of democratic processes within a union.
- Specified minimum standards before a union may expel or take other disciplinary action against a member of the union.
- Barred members of the Communist Party and convicted felons from holding union office.[18]

More on Union Membership

With withdrawal of WWI federal intervention, dues-paying union membership fell throughout the 1920s from a reported peak of 5 million in 1920 to fewer than 3 million by 1933. According to NBER figures, membership then turned around to more than double to 7.2 million by 1940, doubled again to a staggering 13.2 million by 1945, and increased more slowly to 14.8 million by 1950. There was no such postwar slump in membership after World War I because the pro-union legal framework empowering unions remained in place.

Wartime proved prosperous for unions. WWII government labor boards operated, on net, to advance unionization, cementing in place the union gains originally created by the WWI and New Deal interventions. Between 1933 and 1945 the unionized fraction of the civilian labor force rose fourfold from 5.7% to 22.4%. That proportion eroded but remained above 20% during the 1950s.

Since 1960, however, a sharp decline in union density has set in all Western countries. According to OECD data, estimated union density in the United States was 30.9% in 1960, 22.3% in 1980, 12.8% in 2000 and 11.6% in 2007. While the overall rate of decline has recently slowed, the decline in private sector union membership has been partially concealed by union growth in the public sector.

Between 2000 and 2008, for example, BLS data show a decline in unionization among privately employed wage and salary workers from 9.2 million to 8.3 million, and an erosion in union density from 9.0% to 7.6%. Private-sector membership peaked at 17 million in 1970, so in total membership has fallen by over half since 1970. Membership among government-employed wage and salary workers grew modestly from 7.1 million to 7.8 million since 2000, with a stable density of 36.9% in 2000 and 36.8% in 2008.

Union density in the private sector now is not much higher than it was in the early 1900s despite massive federal intervention on behalf of unionism since World War I. The wage-boosting success of private-sector unions has gone hand in hand with their decline in membership (nothing fails like success), as the silent, steady forces of the competitive marketplace continually undermine government-sanctioned labor cartels.

Public-Sector Unions

Public-sector unions are on pace to claim an absolute majority of union members in a traditionally private-sector-dominated labor movement within a few years. Government jobs constitute the "healthy" part of organized labor where external competition provides little or no discipline against union inefficiency, costs, and privilege. From 900,000 union members in 1960, government membership rocketed to 4 million by 1970, nearly 6 million by 1976, and 7 million by 1993, with a growth slowdown to 7.8 million by 2008.

The explanation for the sudden burst of government unionization is another intervention, namely, President John F. Kennedy's Executive Order 10988 promoting unionism in the federal bureaucracy, which he signed in January 1962. Kennedy had received considerable campaign support from unions and his executive order declared that "the efficient administration of the government and the well-being of employees requires that orderly and constructive relationships be maintained between employee organizations and management." The language does not say "orderly relationships between *employees* and managers" but "between *employee organizations* and management." The order set up procedures for determination of collective bargaining units and recognition of unions, compelled agency heads to bargain in good faith, and specified unfair labor practices for unions and management. The order was less generous than the NLRA to unions as it prohibited strikes and established no separate NLRB-type bureaucracy — but it was a beginning.

The order triggered collective-bargaining laws in states such as Michigan, New York, Washington, and Pennsylvania, all of which had substantial private-sector unionism. Only a half-dozen states in the south and west are completely free of such laws promoting public-sector unionism. The National Education Association (NEA), headquartered in Washington, DC (an unsurprising location), is the largest public-sector labor union in the United States with 3.2 million members, although it is not part of the AFL-CIO federation of unions.[19]

Employer or Employee Opposition?

Unions bitterly complain that uniquely American management resistance, legal as well as illegal, has

thwarted employees' desire to unionize. If true, stronger government controls to hamper business opposition and allow open expression of employees' desire to unionize might reverse the decline of private-sector unionism. That is the rationale for the **Employee Free Choice Act (EFCA)** backed by the AFL-CIO and the Obama administration this year.[20] The bill would amend the National Labor Relations Act to require the NLRB to certify a union as the exclusive (monopoly) bargaining agent for all employees in a "unit appropriate for bargaining" upon a finding that a majority had signed valid authorizations designating a labor organization as their agent. This procedure, often called "card check" recognition, would short-circuit employer (and employee!) resistance to unionization of the business and its employees. A secret-ballot election conducted by the National Labor Relations Board, which unions often lose, would no longer be required for NLRB certification, and an employer would be compelled to bargain "in good faith" with the exclusive bargaining agent even though it had failed to win a majority in a secret-ballot election. How far the "industrial democracy" movement has come!

An EFCA law would hardly turn things around for unions, however. They are a relic of the past, subject to competition in the marketplace. Shifts from goods toward services and from the Northeast and upper Midwest to the South and West, a trend toward smaller companies, higher-tech products, and more professional and technical personnel continue to erode the demand for private-union membership. Further, American workers, like the general public, have a low opinion of unions and union leaders, and surveys consistently show that only one in three US employees would vote for union representation in a secret-ballot election. Organizing drives and dramatic confrontations play a small numerical role compared to quiet reductions in the number and size of union establishments and growth in number and size of nonunion establishments.[21]

An Economic Conclusion

While the basic facts of labor history are well known to industrial relations specialists and labor historians, their proper interpretation is not. Most labor historians believe that what is good for unions is good for all labor. This belief underlies prounion statist interventions in markets for labor but is entirely false, as economic reasoning and evidence prove beyond reasonable doubt.

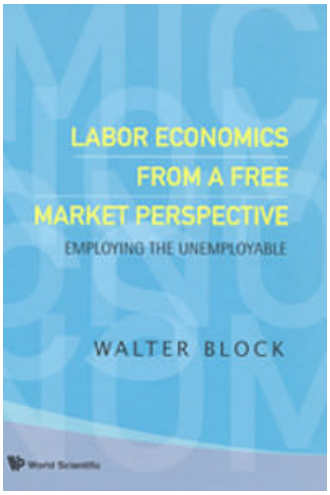
First, when labor combinations or cartels capture monopoly control over whom employers can hire and impose higher wage rates, the number of jobs available in these companies and industries declines. This is the simple result of the law of demand: when unions raise the price of labor, employers purchase less of it. While an increase in labor productivity can partially offset higher labor cost, labor productivity cannot be raised cheaply or it would have been done already. Unions are clearly an anticompetitive force in labor markets.

Second, workers priced out of work by unions remain unemployed or obtain jobs at nonunion companies. A larger labor supply depresses wage rates there, so union wage rates come partially at the expense of lower nonunion wages.

Third, cartels flourish only where rewards are high and organizational costs low. Historically, highly paid craft workers (known as the "aristocrats of labor") organized instead of "downtrodden," low-wage workers because they met two conditions:

1. Union wage rates often decreased employment relatively little because demand for skilled workers was "inelastic," that is, employment levels were relatively "insensitive" to changes in wage rates, at least in the short run.

2. Craft workers also could organize at low cost because they were few in number, had a common mindset, low turnover, and few or geographically concentrated employers.



Many early economists who sympathized with unions knew unionization could succeed only if restricted to a minority of workers, but they endorsed unions as a device to benefit a visible group and ignored the consequences for everybody else, especially wage earners outside the unions. These economists probably wanted to gain a hearing rather than being dismissed as "mean-spirited." That left the field to a handful of truth-tellers like W. H. Hutt and Sylvester Petro. Mises set the standard for advocating the blunt truth with no bow toward labor mythology: "No one has ever succeeded in the effort to demonstrate that unionism could improve the conditions and raise the standard of living of all those eager to earn wages."[22]

Perhaps the most astounding feature revealed by this history of American unionism is that US labor markets continue to work as well as they do. Despite all the union privileges and immunities granted and a never-ending stream of federal labor interventions, the famous flexibility of US labor markets remains — a truly remarkable fact. And the vast majority of American workers remain stubbornly nonunion despite the best efforts of labor unions, the federal government, its court intellectuals, and the mass media.

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1763
: Negro chimney sweeps in Charleston, South Carolina, institute a work stoppage to get higher prices.

1770
: New York coopers convicted of conspiracy in restraint of trade by striking for higher rates

1779
: Sailors strike for higher wages in Philadelphia; troops used and some strikers jailed

1785
: New York City shoemakers strike for three weeks

1786
: Philadelphia printers strike successfully for a minimum wage of $6/week

1790s
: Labor "mutual aid" and benevolent societies formed

1792
: Philadelphia carpenters fail in strike for 10-hour day and overtime pay

1792
: Shoemakers form first permanent labor union in Philadelphia

1799
: First strike by a permanent union — Philadelphia shoemakers — in opposition to a wage cut, fails after 10 weeks

1806
: In *Commonwealth v. Pullis*, jury convicts eight cordwainers of criminal conspiracy to raise rates, fines levied, union disbands

1819
: Financial Panic, most unions pass out of existence

1823
: New York City hatters convicted of conspiracy

1825
: United Tailoresses of New York City conduct first all-female strike

1829
: Workingmen's Party of New York formed

1820s–1930s
: Attempts to form local unions into national unions fail

1834
: First attempt at a national federation, the National Trades Union, formed in New York City

1834
: Factory Girls' Association at Lowell, Massachusetts, strikes

1837
: Panic ends National Trades Union and most unions

1840
: 10-hour day without reduction in pay for federal government employees

1842
: Massachusetts Supreme Court rules bootmakers' union and its threatened strike are not unlawful

1842
: Connecticut and Massachusetts pass laws prohibiting children from working over 10-hour days

1845
: First teachers' association formed in Massachusetts

1847
: New Hampshire first state to pass a 10-hour workday

1850
: Delegates from 43 unions attend workingmen's convention in New York City

1857
: Depression, many unions fail

1852
: Typographical Union ("printers") founded, become the oldest surviving trade union at its dissolution in 1986

1860
: Successful strike of estimated 20,000 shoemakers in New England; Abraham Lincoln comments, "Thank God we have a system of labor where there can be a strike"

1861–65
: Civil War, unions expand from 79 to 300

1863
: Brotherhood of Locomotive Engineers founded

1866–86
: Many local trade unions ally into dozen national unions

1867
: Knights of St. Crispin founded as union open to all factory workers in shoe industry

1868
: 8-hour day for blue-collar federal employees

1868
: First state labor bureau founded in Massachusetts

1869
: Formation of Knights of Labor, ultimately superseded by American Federation of Labor (AFL), formed in 1881

1870s
: Strikes defeated in textiles and mines

1873–78
: Panic of 1873; during postwar deflation national unions resist wage cuts and shrink from 30 to fewer than 10; three-quarters of membership lost

1873–74
: Molly Maguires, a secret Irish terrorist group, scorn conventional unions and commit wave of murders; bosses come to work armed

1874
: Union label first used by Cigar Makers International Union, tells customers product made by white hands

1876
: Forerunner of Socialist Labor party organized

1877
: Four Molly Maguires convicted and hung in Pennsylvania for murder

1877
: First nationwide strike on railroads ("Great Railroad Strike of 1877") in opposition to wage cuts, freight trains obstructed, some state militias side with strikers, federal troops used for first time

1881
: Forerunner of American Federation of Labor (AFL) formed in Pittsburgh

1881
: First Labor Day celebrated in New York City

1882
: Chinese Exclusion Act prohibited citizenship for Chinese immigrants, supported by union leaders, immigration controls reinforced by acts passed in 1884, 1886 and 1888

1884
: Federal Bureau of Labor established within Department of the Interior

1885
: Foran (Alien Contract Labor) Act bans employers from recruiting and paying passage for foreign workers; unions endorse limiting supply of labor, some employed as strikebreakers

1886
: Chicago Haymarket Square riot (May 4), 8 police officers killed and an unknown number of civilians, five convicted and executed, inspires May Day observances for workers

1888
: First federal labor-relations law applied to railroads

1890
: United Mine Workers of America formed

1892
: Homestead strike (Carnegie Steel) in Pennsylvania results in pitched battle between Pinkertons and strikers, 7 die, 2 dozen wounded; Pinkertons lose battle but union loses in long run as Carnegie/US Steel stays nonunion for 45 years

1893
: Business panic and depression eliminates many unions again

1894

Strike against Pullman Car company led by Eugene Debs spreads to railroads, injunction defied, federal troops called out on grounds of striker interference with mail delivery, 13 strikers killed, widespread property damage

1898

Erdman Act provides mediation and arbitration for rail disputes, succeeds 1888 law

1901

US Steel defeats steel union again after 3-month strike

1901

United Textile Workers founded

1902

Coal miners agree to arbitration by presidential committee to end 5-month strike

1903

US Department of Commerce and Labor established

1903

Mother Jones (Mary Harris Jones) leads "March of the Mill Children" to President Theodore Roosevelt's home in New York

1905

Industrial Workers of the World ("Wobblies") formed in Chicago

1905

In *Lochner v. New York* Supreme Court declares a New York maximum-hours law unconstitutional

1906

Typographical Union successfully strikes for 8-hour day

1906

Upton Sinclair publishes *The Jungle* exposing sanitary and safety problems in Chicago meat packing

1908

In *Muller v. Oregon* Supreme Court rules female maximum-hours laws constitutional due to a woman's "physical structure and…maternal functions"

1908

United States v. Adair decision declares so-called yellow dog contracts (employment agreement to not join a union) constitutional on interstate railroads, overturning the Erdman Act

1910

In the "crime of the century," the downtown plant of the *Los Angeles Times* is bombed, killing 21; the newspaper is a powerful opponent of organized labor, leaders of the Iron Workers Union are convicted of the crime; the union had conducted a nationwide bombing campaign since 1905

1911

Gompers v. Bucks Stove and Range ruling orders AFL to cease an unlawful boycott

1912

Massachusetts enacts first minimum-wage law for women and minors

1913

US Department of Labor established, secretary of labor has power to "act as a mediator and to appoint commissioners of conciliation in labor disputes"

1914

Clayton Act limits labor injunctions and endorses picketing and related union tactics but court nullifies in 1921

1914

In Ludlow Massacre in Colorado, day-long battle between strikers and National Guard culminates in Guard attack on tent colony of 1,200 strikers and their families, death toll is 20 including 11 children

1915

LaFollette Seamen's Act regulates seamens' working conditions

1916

Adamson Act imposes 8-hour day on railroads to avert rail strike

1916

Federal child-labor law later declared unconstitutional

1917

Wartime mediation commission headed by labor secretary

1917

Federal government seizes railroads

1918

President Wilson establishes National War Labor Board

1919

Unions lose nationwide "Great Steel Strike"

1919

Labor leaders recommend labor clauses to create International Labor Organization in Versailles Treaty

1919

First police strike occurred in Boston but broken by then-governor Coolidge, bringing him national fame

1920

Women's suffrage amendment ratified

1921

Supreme Court nullifies pro-union features of Clayton Act

1921

In *Truax v. Corrigan* Supreme Court strikes down Arizona law forbidding labor injunctions and permitting picketing

1921

Emergency Quota Act restricts southern- and eastern-European immigration

1922

In "Herrin Massacre" coal strikers in southern Illinois murder 19 strikebreakers and two union members

1924

Immigration (Johnson-Reed) Act limits number of immigrants to 2% of number of people from that country already living in United States in 1890, aimed especially at limiting Japanese immigration

1924

William Green succeeds Samuel Gompers as AFL president

1926

Railway Labor Act enacted as drafted by interstate railroads and unions

1929

Hayes-Cooper Act restricts interstate shipment of goods produced by prison labor

1929

October stock market crash "begins" Great Depression

1930

Supreme Court upholds Railway Labor Act in Texas and *NOR v. Brotherhood of Railway Clerks*

1930

President Hoover effectively bans immigration by decree

1931

Davis-Bacon Act

1932

Norris-LaGuardia Act

1932
Wisconsin passes first unemployment insurance program

1933
NIRA section 7(a) promotes unions and collective bargaining

1933
Francis Perkins appointed secretary of labor, first female cabinet officer

1933
Wagner-Peyser establishes US Employment Service at Department of Labor

1934
Southern mill workers walk off job in "Great Uprising of '34"

1934
United States joins ILO

1935
Supreme Court strikes down NIRA in *Schechter Poultry v. United States*

1935
Wagner Act (NLRA) passes

1935
Committee for Industrial Organization (CIO) formed within AFL to promote industrial-style unions

1935
Social Security Act effectively coerces states into adopting unemployment-benefits programs

1936
United Rubber Workers (CIO) use first large "sit-down strike" to win recognition at Goodyear Tire

1936
United Automobile Workers use sit-down strike at GM plant

1936
Byrnes Act prohibits interstate transport of strikebreakers

1936
Walsh-Healey Public Contracts Act

1936
Railway Labor Act amended to cover airline employees

1937
NLRB v. Jones & Laughlin Steel, Supreme Court finds NLRA (Wagner) Act constitutional

1937
GM and US Steel recognize unions as exclusive bargaining agents

1937
In "Memorial Day Massacre," smaller steel producers refuse to unionize, union protesters in Chicago take to the streets, police block their path and fire on the crowd, killing 10

1937
AFL expels CIO for "dual unionism"

1938
Fair Labor Standards Act

1938
Federal Maritime Labor Board established

1938
CIO changes name to Congress of Industrial Organizations, John L. Lewis made president

1938
In *NLRB v. Mackay Radio & Telegraph* Supreme Court rules striking employees remain "employees"

1940
In *Apex Hosiery v. Leader* Supreme Court rules sit-down strike — actually a plant seizure by unionists few of whom were employed at the plant — was not an illegal restraint of trade in interstate

commerce

1941

Ford Motor Co. recognizes the UAW, signs a union-shop agreement

1941

United States enters WWII (December 8), long sought by FDR, and AFL and CIO announce no-strike pledges and then freely violate them

1941

Executive Order 8802 or Fair Employment Act prohibits racial discrimination in defense industry

1942

National War Labor Board established, Stabilization Act gives Roosevelt the authority to "stabilize" wages

1943

Roosevelt issues executive order establishing Committee on Fair Employment Practices to eliminate "employment discrimination" in war industries

1943

Smith Connally (War Labor Disputes) Act authorizes plant seizures to "avoid interference with the war effort"[23]

1945

WWII ends

1946

Largest wave of strikes as wartime controls relaxed

1947

Taft-Hartley Act (LMRA)

1947

United States v. John L. Lewis holds that Norris-LaGuardia prohibition against labor injunctions does not apply to the federal government

1948

Notes

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[2] "Strikes in the United States," *The Columbia Electronic Encyclopedia,* 6th ed. Columbia University Press.

[3] United States Bureau of the Census, *Historical Statistics of the United States, Colonial Times to 1970*, Part 1, p. 163.

[4] Quoted by Howard Dickman, *Industrial Democracy in America*, (LaSalle, IL: Open Court, 1987), p. 362.

[5] Ludwig von Mises, *Human Action* (New Haven: Yale, 1949), p. 772.

[6] Morgan Reynolds, *Power and Privilege: Unions in America*, (New York, NY: Universe, 1984), p. 101.

[7] Murray Rothbard, *A History of Money and Banking in the United States*, (Auburn, AL: Mises, 2002), p. 179.

[8] Wm. E. Leuchtenburg, "The New Deal and the Analogue of War," in John Braeman, Robert H. Bremmer, and Everett Walters, eds., *Change and Continuity in Twentieth Century in America*, (Columbus

OH: Ohio State University Press, 1964), p. 87.

[9] Murray Rothbard, *America's Great Depression*, (Auburn AL: Mises Institute, 2000), p. 267. [Punctuation flaw is Rothbard's.]

[10] Robert W. Merry, "This Year's Hot Labor Issue," *The Wall Street Journal*, 24 May 1979, p. 20.

[11] Friedrich A. von Hayek, *The Constitution of Liberty*, (Chicago IL: University of Chicago Press, 1960), p. 260.

[12] Richard A. Epstein, "A Common Law for Labor Relations: A Critique of the New Deal Labor Legislation," *Yale Law Journal* 92 (July 1983): 1386.

[13] "History of Federal Minimum Wage Rates Under the Fair Labor Standards Act, 1938–2007," United States Department of Labor Employment Standards Administration.

[14] Jacob Mincer, "On-the-Job Training: Costs, Returns, and Some Implications," *Journal of Political Economy*, 70 (Part 2, Supplement, October 1962), pp. 50-73; Mincer, "Human capital and the labor market: A review of recent research," *Educational Researcher* 18 (4): 27-34.

[15] Milton Friedman, *An Economist's Protest*, Sun Lakes AZ: Horton and Daughters, 1972; for more on the consequences of the minimum wage law cf. Morgan Reynolds, *Economics of Labor*, (Cincinnati OH: Southwestern, 1995), pp. 86-95.

[16] The 13th amendment to the United States Constitution states, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction," yet organized labor had no problem with a military draft; instead it hysterically declared the Taft-Hartley Act a "slave-labor bill."

[17] "Taft-Hartley Act," *Wikipedia.*

[18] "Labor Management Reporting and Disclosure Act," *Wikipedia.*

[19] "National Education Association," *Wikipedia.*

[20] "H.R. 1409," Government Printing Office.

[21] S.G. Bronars and D.R. Deere, "Union representation elections and firm profitability," *Industrial Relations*, 29 (Winter): 15-37.

[22] Ludwig von Mises, *Human Action* (New Haven: Yale, 1949), pp. 764-5.

[23] "A Curriculum of United States Labor History for Teachers," Illinois Labor History Society.

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